

1201468 - R8 SDMS



Letter Regarding Oversight Costs

Kerry Gee

to:

Kathryn Hernandez

04/18/2011 01:21 PM

Cc:

Mia Bearley, Maureen O'Reilly, Matthew Cohn, "Kevin Murray", "Nicole Squires", "Anna Bengtson"

Show Details

1 Attachment



Oversight Cost Letter to EPA 4-18-2011.pdf

Kathy:

Please find attached a letter to you regarding the recent oversight cost invoice from U. S. EPA Region 8. This letter will also be sent to you via courier.

If you have any questions, please do not hesitate to call.

Thanks

Kerry



April 18, 2011

Kathryn Hernandez
EPA Project Coordinator
U. S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

RE: Richardson Flat Tailings OU1
Superfund Site Consent Decree
2:07-CV-00642-BSJ, Site No. 08-94
("OU1 Consent Decree")
Oversight Billing 2010
Notice of Dispute

Dear Kathy:

This letter constitutes a Notice of Dispute provided in accordance with Section XVI, Paragraph 53 and Section XIX, Paragraph 63 of the OU1 Consent Decree. United Park City Mines Company ("United Park") disputes the oversight billing referenced above. In short, the Environmental Protection Agency ("EPA") has included line items in this oversight bill that were incurred by EPA as a result of the EE/CA and removal action discussions relating to the proposed Richardson Flat Operating Units 3 and 4 ("OU3" and "OU4" respectively). This work is outside the scope of United Park's contractual responsibility. United Park would like to resolve this in a cooperative manner and would prefer to resolve the matter short of formal dispute resolution.

United Park's obligation to reimburse EPA for EPA's future response costs is defined in Paragraph 52 of the OU1 Consent Decree. The term "Future Response Costs" is defined in the OU1 Consent Decree to include "all costs, including but not limited to, direct and indirect costs, that the United States incurs on or after March 2, 2006 that relate to (i) negotiating this Consent Decree; (ii) reviewing or developing plans, reports and other items pursuant to this Consent Decree; (iii) verifying the Work; or (iv) otherwise implementing, overseeing, or enforcing this Consent Decree." This definition thus limits future response costs for which United Park is responsible to those response costs, including oversight costs that relate to Richardson Flat Operable Unit 1 ("OU1") and the OU1 Consent Decree.

Moreover, the OU1 Consent Decree defines the site to which the agreement relates as "the Richardson Flat Tailings Site . . . which is located approximately 1.5 miles northeast of Park City, Utah and is part of a 650 acre property owned by [United Park]"

Kathryn Hernandez
EPA Project Coordinator
U. S. Environmental Protection agency
April 18, 2011
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.... The Site is depicted generally on the map attached as Appendix B.¹ Both the definition and the attached map limit the application of the OU1 Consent Decree to OU1. Neither this definition nor the attached map contemplates inclusion of OU3 or OU4.

The highlighted entries on the attached Exhibit 1 were incurred by EPA as a result of time spent on negotiations concerning the proposed OU3 and OU4 and are not part of the remedial action nor included in the definition of Future Response Costs governed by the OU1 Consent Decree. In particular, United Park takes issue with the costs incurred by Mia Bearly in the amount of \$6,667.50, Stan Christensen in the amount of \$4,450.85 and costs attributed Maureen O'Reilly in the amount of \$3,778.92.² These costs relate to OU3 and OU4 and cannot be billed as future response costs relating to OU1 because they do not fall within the definition of future response costs contained in the OU1 Consent Decree.

If EPA had intended that United Park pay oversight costs incurred anywhere in the entire Middle and Lower Silver Creek Watershed that intention would have been specified in the OU1 Consent Decree and reflected in the definitions of "Site" and "Future Response Costs." EPA's current request that United Park pay oversight costs associated with OU3 and OU4 pursuant to the OU1 Consent Decree is improper.

Pursuant to Paragraph 52 and 53 of the OU1 Consent Decree, United Park will pay the uncontested response costs to EPA in the amount of \$15,129.28. If needed, United Park is also establishing an interest-bearing escrow account at a federally-insured bank duly chartered in the State of Utah in the amount of \$14,897.27, the amount of the contested response costs. Once it has established and funded the escrow account, United Park will transmit a copy of the correspondence establishing the escrow account as well as a statement indicating the identity of the bank and bank account under which the escrow account has been established and showing the initial balance of the escrow account. However, we feel strongly that the contested oversight costs are in error and would hope that this could be resolved before the need to establish the above referenced account.

¹ A copy of Appendix B has been attached hereto for your convenience.

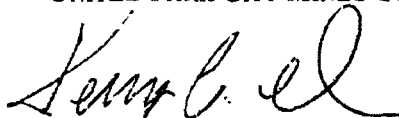
² United Park reached this number by subtracting the costs attributed to Maureen O'Reilly in 2009 from the costs attributed to Maureen O'Reilly in 2010. United Park feels that this is a fair estimate of the costs invoiced that relate to OU1.

Kathryn Hernandez
EPA Project Coordinator
U. S. Environmental Protection agency
April 18, 2011
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If you have any questions or would like to discuss the matters addressed above, please contact me at 435.333.6601. We look forward to working toward a speedy resolution of these issues.

Very truly yours,

UNITED PARK CITY MINES COMPANY

A handwritten signature in black ink, appearing to read "Kerry C. Gee", written in a cursive style.

Kerry C. Gee

Enclosures

cc: Maureen O'Reilly
Matt Cohn
Mia Bearly
Kevin R. Murray

United Park City Mines Company

EXHIBIT 1

Description	2010 Amount	2011 Amount
Government Respons Costs	15,571.81	
Regional Payroll Costs	8,950.76	21,313.77
Regional Travel Costs	2,733.45	549.96
Admin Support Services	32.72	391.35
EPA Indirect Costs	3,854.88	7,771.47
Regional Payroll Costs		
Bearley, Maria/Wood, Maria/Wood, Maria	0.00	6,667.50
Abendschan-Anderson Sharon	123.38	
Golden/Thigpen, Daneila	154.04	
Lehmann, Judy		27.36
Hernandez, Kathryn	3,023.00	828.8
Christensen, Stanley		4,450.85
Oreilly, Maureen	5,560.34	9,339.26
Total Regional Payroll Costs	8,950.76	21,313.77
Regional Travel Costs		
Atencio, Kathleen	407.55	
Hernandez, Kathryn	2,325.90	549.96
Total Regional Travel Costs	2,733.45	549.96
Admin Support Services		
Total	32.72	391.35
EPA Indirect Costs		
Total	3854.88	7,771.47
TOTAL INVOICE	15,571.81	30,026.55

APPENDIX B

Appendix B

